



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable E. G. Garvey  
County Auditor  
San Antonio, Texas

Dear Sir:

Opinion No. 0-3634-A

Re: Whether tax collector is entitled to fee of \$1.00 provided in Article 741, Vernon's Annotated Civil Statutes where the taxpayer pays the delinquent taxes against a specific piece of property and is charged a 6% penalty under House Bill 76, 47th Legislature.

In your letter of July 19, 1941, you request our opinion as to whether the redemption fee of \$1.00 provided for the tax collector in Article 731, Vernon's Annotated Civil Statutes is collectible in a case where a taxpayer, owing delinquent taxes on several pieces of property, selects a particular piece of property and pays the delinquent taxes thereon and is charged the 6% penalty provided in Section 3 of House Bill 76, 47th Legislature.

It will be noted that Section 1 of said House Bill 76 makes a complete release of all interest and penalties accrued on all ~~ad valorem~~ and poll taxes that were delinquent on or before July 1, 1940, provided the same shall be paid on or before November 1, 1941. Sections 2 and 3 of House Bill 76 read as follows:

"Sec. 2. That all costs of every kind and character that have accrued or attached or that may hereafter accrue or attach to or by reason of delinquent poll or ~~ad valorem~~

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taxes on which said poll or ad valorem tax the interest and penalties have been released by any of the provisions of this Act shall be and the same are hereby released, and no such costs shall hereafter be charged, collected, or accounted for, provided, however, that any costs that are now due and payable to any officer or official shall remain a valid obligation, notwithstanding the provisions hereof.

"Sec. 3. Anyone desiring to pay at one time all the delinquent taxes for only one year wherein such taxes are delinquent for more than one year shall have the right to pay the same but without remission of penalties and interest; provided, however that any persons availing themselves of the benefits of this Act shall be required to pay all delinquent ad valorem taxes due the State and county on any specific piece of property on which such taxes are delinquent before the penalties and interest may be released as herein provided; conditioned that a six per cent (6%) penalty on the total amount delinquent be paid on such property."

You suggest that the \$1.00 redemption fee would seem to be due in the case mentioned by you since "the penalty and interest" have not been released in full, there being charged a 6% penalty. However it seems rather clear to us that the release of costs provided in Section 2 will apply to this type of case the same as if the taxpayer should pay all his delinquent taxes and not be charged with a 6% penalty. As already mentioned Section 1 of House Bill 76 provides a complete release of the old penalty and accrued interest. The penalty of 6% levied in Section 3 constitutes the levy of a fresh penalty, not the retention of a part of the old penalty. Hence, we are constrained to the view that our opinion No. 0-3634 is applicable to this case also, and that if on or before November 1, 1941, the property owner pays all the delinquent taxes due against a specific piece of property he stands relieved of this cost, although taking the 6% penalty.

Yours very truly

APPROVED AUG 1, 1941

*Glenn R. Lewis*  
ATTORNEY GENERAL OF TEXAS

ATTORNEY GENERAL OF TEXAS

By *Glenn R. Lewis*  
Glenn R. Lewis  
Assistant



GRL:db